IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 383 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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LAXMANBHAI B VAGHELA EX-CHAIRMAN OF GHATLODIA

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Revision Application No. 383 of 2001

MR AJ PATEL for Petitioner No. 1

MR BD DESAI, APP for Respondent No. 1

DELETED for Respondent No. 2

RULE SERVED for Respondent No. 3-5

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 06/04/2002

ORAL JUDGEMENT

1. Heard ld. counsel Mr. A.B. Munshi for Mr. A.J. Patel, ld. counsel for the applicant-accused and

ld. APP Mr. Desai for the State, ld. counsel Mr. K.I. Patel for Respondent Nos. 3 to 5. Mr. K.I. Patel, ld. counsel appearing for Respondent Nos. 3 to 5 states that he has filed his appearance for Respondent Nos. 3 to 5.

2. Original complainant Manubhai Shah has expired and, therefore, Respondent Nos. 3 to 5 are brought on record. I have considered the nature of complaint filed by original complainant Manubhai Shah against the Chairman of Ghatlodia Nagar Panchayat, now converted into Municipality. The applicant, at the relevant point of time, was Chairman of Ghatlodia Nagar Panchayat. The allegation is that the construction owned and occupied by the original complainant was demolished by the panchayat administration.

3. It is on record that it was collective decision of Ghatlodia Nagarpalika and the act of Panchayat was in discharge of statutory duty. The allegations made in the complaint, even if accepted, Chairman of the Panchayat cannot be linked with the alleged crime. Trial Court ought to have discharged the applicant accused; even on the point of sanction as he was there in the capacity of a public servant. Ld. counsel Mr. K.I. Patel has rightly submitted that Respondent Nos. 3 to 5 have no interest in the matter and this Court can pass appropriate orders and may allow Revision Application discharging the applicant accused.

4. Ld. APP Mr. Desai has also fairly submitted that looking to the nature of complaint and evidence available on record, the concerned Court should have discharged the present applicant. The parties have not pressed for reasoned order and hence without dealing with the facts in detail and considering the submissions made by the counsel appearing for the parties, this Court is inclined to allow this Revision Application.

5. For the reasons aforesaid, Criminal Revision Application is allowed. Impugned order dated 27.7.2001 passed below application exh.4 in Criminal Case No. 2617/1990 passed by the ld. Chief Judicial Magistrate, Ahmedabad (Rural) is hereby quashed and set aside so far as present applicant-accused Laxmanbhai Vaghela is concerned and applicant accused Laxmanbhai Vaghela is hereby discharged and acquitted of the offence punishable under Sections 147, 148, 149, 323, 427, 352, 447 and 506 of IPC. It is, however, clarified that proceedings against other accused in Criminal case No. 2617/1990 pending before the ld. Chief Judicial Magistrate, Ahmedabad (Rural) shall continue.

6. Rule is made absolute accordingly.

6.4.2002 [C.K. BUCH, J]
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